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OFFICE OF PETITIONS

In re Application of	:	
CAVALHEIRO, MARIO TEIXEIRA	:	
Application No. 10/525,511	:	DECISION ON PETITION
Filed: 02/24/2005	:	
Attorney Docket No. 5345-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed November 1, 2006, which set a shortened statutory period for reply of three (3) months. Petitioner did not submit a request for an extension of time within the six-month statutory period for reply pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on February 2, 2007. On May 31, 2007, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee, and (3) an acceptable statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555.00 extension of time fee was paid after the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 3745 for appropriate action by the Examiner in the normal course of business on the reply received on October 28, 2008.

Christina Tartera Donnell

Christina Tartera Donnell
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